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1917



A

# LETTER

TO AN

*English* Member of Parliament,

FROM A

Gentleman in *Scotland*,

CONCERNING

The *Slavish Dependencies*, which a great Part of that Nation is still kept under, by *Superiorities, Wards, Reliefs*, and other Remains of the *Feudal Law*, and by *Clanships*.

CONTAINING

Very good Hints for reforming the *Highlands*, and preventing REBELLION for the future.

First Printed at *Edinburgh* in 1721.

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L O N D O N :

Printed for M. COOPER, at the *Globe* in *Paternoster-Row*. 1746. [Price Sixpence.]

## Advertisement to the READER.

AS the late threatenng and wicked Rebellion is now suppressed, by the Blessing of the Almighty upon his Majesty's Arms, under the Command of his Royal Highness the DUKE OF CUMBERLAND; some Measures will undoubtedly be taken, for reforming the Government of the *Highlands*, where it began, and for preventing the like Invasions of our Peace for the future. This Pamphlet is thought to offer very good Hints for that Purpose, well worth the Consideration of those in Power. Laws made for the punishing of a Community will hardly be attended with any good Effect. The Welfare and Union of the Whole is the only Security for the Liberties of every Part of the Nation. Let Laws be made for the Good of the People, and not for their Hurt; let the Faith and Spirit of the Union be carefully remembered, and let Justice be impartially administered and executed: And then we may hope, God will give a like Success to our Politics as to our Arms.





A

# LETTER

TO

An *English* Member of Parliament,

FROM

A Gentleman in *Scotland*, &c.

S I R,

**A**S you have always acted the Part of a true *Patriot*, for the Liberty of your own *Country*, I am encouraged to address you in this Manner, that you may be induced to use your Interest for the Liberty of ours. I make no doubt, but most of our *Members* will readily concur with you: For I know many of them to be Gentlemen that have true Notions of *Liberty*; and will be ready to do any thing incumbent upon them, that their Fellow-Subjects and Country-men may be rescued from those *Grievances* which now lie so heavy upon them. But as they bear only a small Proportion in the *House of Commons*, they are not able to do any thing of themselves,

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without

without the Concurrence of the *English* Patriots in the *House*; and therefore I chuse to make Application to you, as a Gentleman of known Interest among them.

I need not tell a Person of your Learning and Sense, That the *Wisdom* of your *Nation* thought fit long ago to relieve the *English Subjects* from these Hardships under which we still groan: I shall not therefore go so far back as the Reign of your *Henry VII.* who freed your *Commons*, in a great measure, from the Dependence they had, till then, been under to your Great Lords. I content myself, to put you in mind of the *Act* which your *Parliament* obtained in the 12th of King *Charles II.* for taking away the *Court of Wards* and *Liveries*, and *Tenures in Capite*, and by *Knights Service*, and *Purveyance*, and for settling a Revenue upon his Majesty in lieu thereof.

The Preamble of that *Act* is so much to my Purpose, that I take leave to repeat it, as follows :

Whereas it hath been found by former Experience, That the Court of Wards and Liveries, and Tenures by Knights Service, either of the King or others, or by Knight-Service in Capite, or Socage in Capite of the King, and Consequents upon the same, have been much more burdensome, grievous, and prejudicial to the Kingdom,

dom, than they have been beneficial to the King: Be it therefore Enacted, &c. That the Court of Wards and Liveries, and all Wardships, Liveries, Primer-Seisins, and Outberlemain, Values and Forfeitures of Marriages, by Reason of any Tenure of the King's Majesty, or any other, by Knights-Service, &c. be taken away.

I dare leave it to your own Judgment, whether, since we are now united into one Nation, the *Scots* have not Reason to plead for the like Freedoms: And since we have the above-mentioned Declaration of your King and Parliament, That these Services and Tenures were found, by Experience, to be much more burthensome, grievous, and prejudicial to the Kingdom, than they have been beneficial to the King, we cannot but hope, that a Prince so renowned for Clemency and Benignity to his Subjects as King George, and that so wise a Senate as yours, will readily concur to make us share in the same Liberties: And deliver us from these Hardships, which you will find, from what follows, are as burdensome, grievous, and prejudicial to us, as ever they were to you. And it is evident by the *Two Rebellions* in our Country since his Majesty's Reign, that instead of being beneficial to his Majesty, it will be very dangerous for himself and his Royal Family, to have them continued.

By the Fourth Article of the *Union*, it is Enacted, That there be a Communication of all *Rights, Privileges, and Advantages*, which do, or may belong to the Subjects of either Kingdom.

This at first looked with a very favourable Aspect towards our Nation: But alas! we were only shew'd the Freedom and Privileges of our *English* Neighbours, from these Badges of Slavery, without any Prospect of enjoying them: For the Yoke complain'd of was continued upon us by the twentieth Article, which enacts, *That all heretable Offices, Superiorities, heretable Jurisdictions, Offices for Life, and Jurisdictions for Life, be reserved to the Owners thereof, as Rights of Property, in the same Manner as they are now enjoyed by the Laws of Scotland, notwithstanding this Treaty.*

You know very well, Sir, that the *Union* was made in haste, and push'd on by the Court; and I dare say, that the then Courtiers had other Views by it than were at that Time pretended: You have heard of the famous Speech made by one of Queen *Anne's Scots* Ministers, to the Parliament of *Scotland* 1703, wherein he mentioned her *secret and revealed Will*: And I can assure you from my own certain Knowledge, that some of our chief *Jacobites* had secret Views in pushing on the *Union*, quite contrary to those they thought fit to reveal. 'Tis true that most Part of the  
common

common *Jacobites*, and even others who were not let into the Secret, opposed the *Union*, because by the second Article the *Protestant Succession* was established; and you may depend upon it, that the Zeal for that *Succession*, which the Court had till that time hindred to be settled, brought many worthy and honest People into the *Union*, who would otherwise have opposed it with their Lives and Fortunes, upon the Terms it was carried on. I know it was given out, by some who pushed it on by Order from the Court, that the general Opposition made to it in the Kingdom upon the Plan proposed, proceeded from *Jacobite Principles*: But we know the contrary; and that the general Aversion to that Plan proceeded from a Sense that we should thereby lose our *Independency*, which our Ancestors had so bravely maintained for many Ages; and I will be bold to say, that this was the chief Cause of our People's Dislike to the *Union*. But, next to this, the just Apprehensions of the Danger that threatned our *Church* from the different Constitution of yours, was the second Cause, and the Ratification of these *servile Tenures* above-mentioned claimed the third Place.

It was really amazing to us, that a People so sensible of the Benefits of *Liberty*, and so tenacious of it as you have always been, should have come into this second *Article*, which wreathed those *Yokes* about our Necks,  
which

which you have broke off from your own. Your Countrymen have always been afraid of a *Standing Army*, and opposed it from time to time with Vigour; we were therefore astonished at their not foreseeing, that the Confirmation of these *Superiorities* laid the Foundation of a constant standing Army, even in time of Peace. You know very well how numerous our *Superiors* and *Chiefs* of *Clans* are, and what great Followings they have in the North and the *Highlands*. You are of Age enough to remember that in K. *Charles II's* Time, when *Popery* and *Slavery* were intended for us, an Army of 10 or 12000 of these *Highlanders* was brought down upon the West of *Scotland*, which was most averse to the above mentioned Design, and therefore was ravaged with as much Barbarity as if it had been an Enemy's Country.

You remember likewise, what Trouble these *Highland Superiors* and *Chiefs* gave to King *William* after the Revolution, and what an Effort they made against his brave disciplin'd Troops at *Killicrankie*, where General *M'Kay* was beat off the Field; and, as I was told by a Person of Quality, who had a Command of Horse in the King's Army, would certainly have been taken Prisoner, had not the Rebels been intent upon Plunder, and left without a proper Commander, by the Death of their General, the Lord *Dundee*, who fell in the Battle.

It was long ere the Loss of the King's Troops was retrieved; nor were the Rebellious *Clans* brought to submit at last without a *Brieve*.

You know what Danger the *Protestant Succession* was in, from these *Clans*, towards the Close of the last Reign: No doubt but you remember some of their bold and treasonable Addresses in Behalf of the *Pretender*, for which they were well encouraged; and that annual Pensions were given by the late *Queen's* Ministry to the Heads of these *Popish*, as well as *Protestant Clans*, that they might be ready for his Service when Occasion offered.

The Rebellions under the late Earls of *Mar*, *Marischal*, *Seaforth*, &c. are fresh in every one's Memory. People with you were very much surprized at the Earl of *Mar's* being able to raise so great an Army in so small a Time; but it was no Surprize to us who knew the *Superiorities* possess'd by himself, and those that join'd him. They who look into our History, will find that the Heads of *Clans* have rebelled frequently against our *Princes*; and often made War upon one another, to the great Disturbance of the Peace of the Nation: Besides the Incurfions they often made upon their peaceable Neighbours in the *Lowlands*, from whence they carried their Cattle, &c. This occasioned many Laws, in several Reigns, and particularly in that of King *James VI.* when

divers Acts were made for suppressing these Disorders ; and, among other Things, the *Chiefs* of all the *Clans* were obliged to give Hostages, for securing the Peace of the Country.

I know it will be objected, “ That in the  
 “ West of *Scotland*, and other Places where  
 “ there are such *Superiorities*, the People are  
 “ not so much inclined to *Rebellion* ; and  
 “ therefore the *Superiorities* alone ought not  
 “ to be charged with the *Rebellions* menti-  
 “ oned since the Revolution.”

I answer, That I don't charge them, intirely, upon these *Superiorities*, tho' certainly that has been the chief Cause of them. I own it is partly owing to the Ignorance of the People in the *Highlands* and *North*, where the spreading of the *Reformed Religion* has been industriously hindred, not only by the *Popish* Heads of *Clans*, but even by all our *Kings* from the Reformation to the Revolution ; because they depended upon these Men, as a constant Army to support them, in their Designs of reducing us to *Popery* and *Slavery*.

The Exception made as to the *Superiorities* in the West and South, is owing to this, That the People there are better instructed in the Principles of *Religion* and *Liberty*, which their *Superiors* have for most part countenanced ; so that 'tis owing to their honest Principles, that they would not follow any of their *Superiors*, who might be inclined to  
*Popery*



*Popery and Slavery.* Thus the Earls of *Nithsdale*, *Carnwath*, and Lord *Kenmure's* Dependents and Tenants, instead of joining their Lords in the Rebellion, did most of them take Part with the Government.

This, Sir, I hope, is enough to let you see, that, should we ever have the Misfortune to fall again under an *arbitrary Prince*, he may, by gaining these *Superiors*, (and *Princes* never want Means to do that) raise a numerous Army, without being obliged to a *Parliament*: And as these Men are now capable of entering *England*, without its being looked upon as a National Quarrel, you are in more Danger of having your Constitution overturned that Way, than before the *Union*.

That small Number of *Highlanders* detach'd by the Earl of *Mar*, under Brigadier *Macintosh*, who joined your Northern Rebels in 1715, may serve as a *Specimen* of the Danger you incur, if these *Superiorities* continue: For, if these Men were so audacious against an established Government, and the King's Army, what are they not capable of doing, when countenanced by any future Prince, who has a Mind to make himself absolute? This brings to my Mind a Project that was put into the Hands of the late King *James II.* by a *Highland Gentleman*, who was a considerable Branch of one of these *Clans*: He gave his Majesty a List of all the *Clans*, and pro-

posed that the *King* should form a *Corp de Guard* of their eldest Sons or presumptive Heirs, to be always about his Person: This was to be done under a Pretence of keeping them as *Pledges*, for the *Loyalty* and good *Behaviour* of their respective *Clans*; but in Reality, that they might have the more Authority, and keep their *Clans* in Readiness to support him in his Designs of reducing us to *Popery* and *Slavery*. I doubt not, but you will allow that this was a cunning, as well as a dangerous Project; and had King *James's* short Reign allowed him Time to bring it to Maturity, we might have all smarted under it.

What has been, may be; and if any future Prince should, by bestowing Posts or Money, be able to gain these Great Men in *Scotland*, and others who are possessors of these *Superiorities*, you see he cannot fail of having a great Army in a little Time, without much Noise or Money.

These I take to be Arguments, strong enough to induce great Members in both Houses, to use their utmost Endeavours that these *Superiorities* may be taken away; and that our Nation may be freed, as well as yours, from such *servile Dependencies*, either on the King or Subjects; and especially on such as have, from Time to Time, made too ill an Use of them. For as those *Superiorities* in the Hands of Subjects have been almost constant Nurseries of

of Rebellion, so these *Ward Holdings*, if continued in the *Crown*, will be always a powerful Incentive, to make those who hold that *Tenure* to comply with the *arbitrary Designs* of any *future Prince*. The *Clans* above-mentioned, were so very troublesome to their Neighbours in the Reign of King *James VI.* that a List was given into the Parliament of 150 Landlords, in whose Estates they dwelt, that were obliged to give Security for their Behaviour; besides a List of 34 *Clans*, that had *Chiftains* on whom they depended, and frequently against the Will of their Landlords; as appears by the Rolls annexed to the End of the 7th Parliament, King *James VI.*

By an Account of the Battle near *Dumblain*, printed by the Rebels, it appears that they had 10000 effective Men in the Field; besides two Regiments that had not joined them from *Dunfermling*, and two other left about *Perth* and elsewhere: And that there were with them, at least, 12 or 14 Heads of *Clans*; besides the Marquess of *Huntley* and Earl of *Seaforth*, whose Families are known to have great Followings in the North; and the Marquess of *Tullibardine*, who had a great Influence among the *Athole* Men. The other Nobility among them who had considerable Followings, were the Earl of *Marshall*, Earl of *Southesk*, Earl of *Pannure*, Earl of *Strathmore*, Earl of *Kintore*, and the Lord *Drummond*; besides several Gentlemen, who are  
also

also possess of *Superiorities* : And that was the true Reason of the Earl of *Mar's* being able to form so considerable an Army in so little a Time. The *Clans* that were in the Battle, were, Sir *Donald M'Donalds*, *Lochyells*, *Broadalbins*, *Glengaries*, *M'Cleans*, *Appin's*, *Clan Ronalds*, *Glencoes*, *Keppocks*, *Strowans*, and *M'Phersons*, besides others that were elsewhere in Arms ; and particularly the *M'Intoshes*, with the Brigadier of that Name ; and the *M'Gregors* under *Rob Roy*, who went about plundering the Country ; and *M'Dougal* of *Lorn* did the like.

These are Instances sufficient to shew the Necessity of taking away the *Superiorities*, and the Safety both of the Government and Country calls for it, whatever many of our *Lords* and other *Superiors* may do to oppose the same.

It may be objected, that this will be a Breach of the 20th *Article* of the *Union* above-mentioned ; but the Answer is easy, that it does not seem to be an *unalterable Article*, such as that which relates to our *Church* ; since it is provided by the last Clause of the 18th *Article*, That an Alteration may be made in Laws which concern private Rights, for the evident Utility of the Subjects within *Scotland*. And that such a Law would be so, is too demonstrable to be controverted ; and will still appear to be more necessary, because of the great Oppressions

pressions which *Vassals* labour under by these *Tenures*, as shall be mentioned anone.

You know well enough, that these *Tenures* are the Remains of the old *Gothick* Constitution, which prevailed so long in *Europe*; and were indeed necessary in those Days, when there was no other Way for defending the Country: And the *Barons* and other *Vassals*, who held by *Knights Service*, were then instead of a standing Army, and obliged to be ready for Defence of the *Government*, against Foreign Invasions and Intestine Rebellions. But the Case is now quite altered: There are standing regular Troops kept up for a constant Defence of the Kingdom, by Guards and Garrisons in time of Peace, and more are levied in time of War. All these are maintained by Money raised on the Subjects in general; so that there seems not to be the least Reason for continuing these *Tenures*, which are now become useless, and do no Way answer the original End of their Institution. And considering we are now united in one Kingdom, they are less necessary than ever: And it cannot but be provoking to the *Scots*, to be continued still under such *Servile Tenures*, when the *English* are freed from them. And I make not the least Doubt, but even some of our Great Men will be so generous as willingly to part with their *Superiorities*, upon a reasonable Compensation for what they can call their  
*just*

*just Right*, such as their *Feu Duties* in *Feu Tenures*.

As a farther Argument for taking away these *Superiorities*, I must acquaint you, Sir, that our *Superiors* and *Chiefs* of *Clans*, especially in the North and North-west *Highlands* and *Isles*, assume a despotical Power over the *Lives* and *Fortunes* of their *Vassals* and *Tenants*: By this Means, the Influence and Regal Power of our *Kings* are interrupted and eclipsed; for the poor People scarce know any other *Sovereign* but their *Superior*, or Head of their *Clan*: And therefore are forced to obey their Commands even against the *King* himself. The Reason is, because their *Superiors* can exercise their *Tyranical Power* upon them, before they can possibly have any Relief from the King; and they are in danger of being hanged up, before their own Doors, under Pretence of *Law* and *Jurisdiction* of their *Superiors*, and of having their Substance taken away, and their Families reduced to Beggary, if they do not *follow* them.

I doubt not but you remember the Instance of the late Earl of *Mar*; who, when he began his *Rebellion*, in the Close of the Year 17'5, sent a threatening Letter to his *Baillie* and *Vassals* of the Lordship of *Kildrummy*; ordering them to come out with their best Arms, on Pain of having their Houses burnt, their Effects carried off, and being prosecuted as Enemies: And this was at a Time, when he had no Force

to back his Orders, but the Authority of a *Superior*. By this you may see, that *Vassals* and *Tenants* have no other Way to escape in such a Case, but to flee; which many Times is not practicable: And if they do, their Families and all that they leave is exposed to Ruin.

It is but a poor Relief, in such a Case, for *Vassals* and *Tenants*, who continue faithful, and happen to escape, to hope for Redress from the Government: Experience hath too frequently taught us, that when the Turn of a Ministry is served, and they have secured themselves; they take very little Care of those who have suffered for the Government. Nor is it always in their Power to give an adequate Relief to the great Number of Sufferers: Besides, no sufficient Compensation can be made to a Wife for the Loss of her Husband, to Parents for the Loss of their Children, and to the Children for the Loss of their Father. And when the Estates of *Rebels* of Quality and Wealth are forfeited, there is seldom any Care taken to apply any Part of them for the Relief of those that suffer by the *Rebellion*.

Many poor People were burnt out of their Houses in the Shire of *Perth*, and elsewhere, by the *Pretender's* Orders; and others had their Houses plundered: And many *Loyal Gentlemen* who served against the *Rebels* upon their own Charges, and some who

had their Estates wasted, and their Tenants ruined by the *Rebels*, are to this day without any Compensation from the *Forfeited Estates*, or being otherwise considered, by the Government for their Service and Sufferings. And had not some of them furnished their Tenants with Money to buy Corn and Cattle, and to rebuild their Houses; their Estates must have continued a Wilderness, and their Tenants gone a begging.

On this Occasion I cannot but observe with Regret, the Non-execution of the *Act of Parliament*, which was so well designed for *discouraging* the *Rebellion*, by ordering, that such *Vassals* as continued faithful, should be freed from the *Vassalage* of their *Rebellious Superiors*, and hold of the *Crown*; and, that every faithful Tenant, who held a Farm, or Farms, of a *Rebellious Landlord*, should have two Years Rent: As to the latter Part, especially, I am told, the honest Tenants have received little Benefit by it.

These, Sir, I think are Arguments strong enough, from the Dangers to which the *Government*, as well as *Vassals*, *poor Tenants*, and the whole *Country* are exposed by these *Superiorities*, to plead for annulling of them.

But there is another Argument, which more immediately relates to the Constitution of *Parliament*; and therefore I hope, will sway with both Houses for annulling these *Superiorities*.



*periorities.* The Argument is this, that all who are *Vassals* to these *Superiors*, tho' they have considerable Land Estates, are deprived of *Votes*, in electing *Parliament Men*: And even such of these *Vassals* as hold other Parts of their Estates of the *Crown*, are so much over-awed by these *Superiors* of whom they hold the rest, that they generally Vote their Way. I doubt not, but you are sensible that this is an Invasion upon a Fundamental Part of our Constitution, and therefore ought to be removed. I perceive your *House of Commons* have been always so jealous of the Freedom of Elections, that they commonly begin the Parliament with vigorous *Resolves* against your Lords concerning themselves in the Election of *Commoners*. The Case with us is much more dangerous here; for *Vassalage* being abolished in *England*, none of your *Lords* can have such Influence in Elections, as our *Superiors*.

This Evil has in part been removed by the Parliament of *Scotland*, in the Shire of *Sutherland*; where the whole Gentry being *Vassals* to the Earl of that Name, the Parliament notwithstanding allowed them to elect a Member of Parliament, as other *Shires*: Yet this is but a lame Remedy, since the *Electors* do intirely depend on the *Earl*.

I must also acquaint you, that some of our *Superiorities* are so unjust, absurd and barbarous, in their own Nature, that they are a

Shame and Reproach to any *Christian Nation*, where they are continued. The first I shall mention is that of *Ward-holdings*. You know very well, Sir, that your Nation could not bear the holding of Lands by such a *Tenure*, even with your *King*; that the Complaints against the Proceedings of your Court of *Wards* ran so high in Time of King *Charles I.* as contributed not a little to the general Dissatisfaction with that Prince's Administration; inso-much that even that loyal Parliament which was called after the *Restoration* of his Son *Charles II.* found it necessary to abolish these *Ward-holdings*, by the Law above mentioned. You may therefore easily conceive, that we can never be easy to have such a Yoke continued about our Necks, when our Brethren of *England* are free from it.

These *Ward-holdings* are ruinous to many Families; for when the *Vassal* dies, and leaves his Heir a Minor, the *Superior* may, during his Minority, break in upon the poor Widow and her Children; and take all the Rent of the *Ward-lands*, except a small Part for the Maintenance of the eldest Son. By this Means the Widow and younger Children are deprived of their Bread, and the Children also of their Education; and the Debts owing by the Family continuing unpaid, the *Interest* eats up the *Estate*: But this is not all; for when the Heir comes to Age, the *Superior* may demand a Year's Rent of him, under the  
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Name of *Relief*, and two or three Years more in pretence of the *Marriage-Right*; so that the *Superior* not only swallows up the Estate of his *Vassal*, but defrauds his Creditors. And if the poor Heir, as it frequently happens, sells or mortgages any Part of his Estate, to pay off the just Debts of his Predecessors, or to put himself in a Way to live; and happen but to sell or mortgage a Foot more than the half of the Estate, the *Superior* takes the whole under the Name of *Recognition*.

On the other hand, if the *Heir* either neglect, or be not able, to pay his Creditors, they will distress him with a Process of *Horning* or *Outlawry*; and in that Case the *Superiors* that have *Regalities*, seize and possess the whole Estate moveable and heritable, under the Name of *single* and *Life-rent Escheat*; and possess the moveable Estate in *Property*: As all the *Superiors*, whether having or not having *Regalities*, seize and possess the *heritable* Estate during the Heir's Life; and still the Debt runs on, to the Ruin of the Estate. And this barbarous Oppression, from *Life-rent Escheats* at least, is common to all our Holdings in *Scotland*, whether *Ward*, *Blench* or *Feu*, and sadly afflicts all our *Vassals* (though standing infest by the *Superiors*) when distressed by any Creditor with a Process of *Outlawry*, as well as the Heirs *unentred*, or not *infest* by the *Superiors*.

On this Occasion I must inform you of the Absurdities, as well as the Tyranny of these *Escheats*, as follows. When a Creditor obtains an *Outlawry* against the Debtor, if the latter be not able to pay him in six Days, or such time as is mentioned in the Obligation, which may frequently happen, even to a rich Man, the *Debtor* is immediately ruined : For by our Law, all his *moveable Goods*, and *Debts* owing to him, fall to the *King*, or other *Superior*, having a *Regality* ; who is not obliged to allow a Sixpence to any of the Creditors, except to him that obtained the *Outlawry*. When a Man's Credit is thus broke, he cannot be released from the *Outlawry*, and is esteem'd by our Law a *Rebel* : And the *Superior* takes the Rents of the Estate during the poor Man's Life, under the Name of *Life-rent Escheat* ; without paying a Farthing to the Creditors, unless they be previously infest in the Estate. It is true indeed, that the Crown, out of the Sense of the manifest Injustice of this Way of proceeding, does, when the *Escheat* falls into the Hands of the *King*, charge the *Escheat* with the Payment of Debts to the Creditors ; according as those intrusted by the Crown think fit to rank them. But that is meerly an Act of *Grace* ; and, as it is usually managed, attended with Injustice, because the Managers rank the Creditors as they please. So that frequently these Creditors who ought to be preferred, have nothing

at all : And others, whose Claims are neither so considerable, nor so well founded, are paid. Besides, if the Debtor grant *Infeftments*, or agree to *Adjudications* upon his Estate, in favour of those whose Claims he thinks best, the *Superior*, if he find that these *Infeftments* and *Adjudications* are posterior to the *Outlawry*, seizes the whole Estate, and makes these *Infeftments* and *Adjudications* of no Value.

Certainly, if these Things were fairly represented to a *British Parliament*, they would readily come into Measures for delivering us from such Oppressions, the very Recital of which is enough to make a *Christian* Ear to tingle : For they are of such a Nature, that the Barbarity of them would be abhorred even among Heathen Nations. I dare refer it then to your Judgment, whether the *Vassalage* spoken of, with all these *Casualties*, as we call them, which are claimed by the *Superiors*, ought not to be abolished.

Another Handle of Oppression against the *Vassals* is this, That upon any Call from their *Superiors*, they must produce all the Writings relating to their Estates, and lodge them in a *Clerk's* Hand ; otherwise Certification goes out against them, to deprive them of their Property : And, even, when the *Writings* are produced, *Superiors* have many Ways to prolong *Suits* upon frivolous Pretexs, and put their *Vassals* to intolerable Trouble and Charges ; and many times  
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the Writings are lost, while tossed from Hand to Hand among Lawyers, Clerks and Agents, and other Servants belonging to the Court; by which Gentlemen lose their Estates. And if at last the *Superiors* agree with their *Vassals*, they exact such exorbitant Sums for pretended *Non-entries*, *Irritancies*, or for receiving the Heir or singular Successor of the *Vassal*, as swallow up a great Part of the Estate. It is truly lamentable, Sir, to see so many *Processes* of *Reductions*, *Improbations*, *Declarators* of *Non-entry*, *Disclamations*, *Irritancies*, and of *single* and *Life-rent Esccheats*, in the Records of our *Court of Session*, as are enough to weary poor People out of their Lives, as well as to deprive them of their Estates.

The *Crown* has already agreed to take moderate Rates for these *Casualties*, which belong to the *King*; but private *Superiors* do for the most part demand exorbitant Rates for them, tho' some have been so generous as to use their *Vassals* kindly, when they fell into such unhappy Circumstances. Upon the whole, I doubt not but you will agree with me, that it were good, both for the *Crown* and other *Superiors*, that such *servile* and *oppressive Tenures* were abolished, and the Estates of those who are now *Vassals* disincumbred, and many Gentlemens Families saved from being ruined by the barbarous *Casualties* of these *Tenures*, and honest *Creditors* paid off their  
just

just Debts; and so our whole Nation should find themselves obliged to bless the *King* and *Parliament*, for rescuing us from such intolerable Oppressions.

The *Superiors* may contend, That their *Superiorities* are their own private Rights, and that therefore they cannot be deprived of them.

To this I answer, That as for the yearly *Feu-duties* in *Feu-tenures*, I own that they ought to have Compensation for them: But as to *Ward-holdings*, and the *Casualties* thereof, acclaimed by the *Superiors*, they are so barbarous, absurd and unjust in their own Nature, that 'tis a Shame and Reproach they should be continued in a *Christian Nation*, as I have already said: And as they are Handles for cruel and barbarous Oppression upon the *Vassals*, and have been so used to the Ruin of many Gentlemen's Families in *Scotland*; so it would be very dangerous for the King and his Royal Family to have them continued, as giving occasion for Rebellion. Beside that the *Ward-holdings* were altogether temporary; introduced, and to have been continued in *Scotland* only for temporary Ends and Uses, when the *Barons* and their *Vassals* by their *Knight-Service*, were the only Defence of the Nation in all Wars. But now, and long ago, the Case is wholly altered. There are standing regular Troops levied, and kept up for the Defence of the Nation; and these paid by publick Taxes collected from the whole People.

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'And these regular Troops are all that the *King* and *Parliament* make use of for *military Service*: And so these *Ward-holdings* ought consequentially to fall, and no Price can be demanded justly for them. And the *King* and *Parliament* have fully shewed their Inclination and Good-Will for abolishing all these abominable *Ward-holdings* in *Scotland*, of the *Crown*, from the late Act of the *British Parliament*, vesting the forfeited *Estates* in *Trustees*, to be sold for the Use of the *Publick*, in appointing such of the said *Estates* as lie in *Scotland*, to be holden all, after the Sale, of the *King* by the *Tenure* there called *Blenchholding*: Whereby 'tis clear that the *King* and *Parliament* part with the *Ward-holdings* of the *Crown*, in forfeited *Estates*, without any Value for them; and so ought other *Superiors* to do. For why should our *Lords* and *Barons* be allowed to keep up these *Ward-holdings* of themselves, over their *Vassals*, which are barbarous in their own Nature, and were only temporary in their first Institution; when the *King* remits to these *Lords* and *Barons*, their own *Ward-holdings* of the *Crown*: And when the original Occasion and End of both of them were one and the same, and wholly Temporary, and are now altogether ceased, as aforesaid. And as for the *Escheats* claimed by the *Superiors*, they give, and have given, so much Occasion for cruel Oppression and Fraud upon the *Vassals*, and their just *Creditors*,



tors, that it were a Shame for any just Person to claim any Value for them.

We are also liable to another pressing *Grievance*, which proceeded from the same Fountain; and that is, *Hereditary Jurisdictions* belonging to several Families, such as *Ireships, Stewartries, Regalities, Bailliariés*. This is another manner of Interposing betwixt the *Sovereign* and the *Subject*; and as it is oppressive to the *People*, so it deprives the *Crown* of as much Power as is given to such Families. This has frequently been the Occasion of very great Oppressions, and particularly by the *single* and *Life-rent Escheats* falling to them in manner above-mentioned: And those of them that have *Regalities*, are vested with no less than a *Royal Power*, diminishing exceedingly the *Sovereignty* and *Prerogative* of the *King*. And to what purpose could these interposed *Hereditary Jurisdictions* in *Scotland* be continued, but to give Occasion to harrass and oppress the poor People under them, with *Fines* and other *arbitrary Impositions*; applied by the Judges themselves for their own private Uses, and so ready to blind their Eyes in the Distribution of Justice: Or to enslave and expose the *King's Free Lieges* to Attendance upon so many *Head Courts* every Year, and *Amerciaments* for Absence. And many of these Jurisdictions claim a *Justiciary Power* of *Beheading* and *Hanging* within their Territories at

pleasure: And all of them impose and exact *pecunial Mulets* for their own proper Uses, and some for little or no Faults; the Benefit of the *Fines* redounding to themselves, as in the Case of what we call *Bloods* and *Batteries*, If one be attacked by another, and have used only innocent Self-defence, though for saving his Life, when both the Aggressor and Defendant are called before these our *Judges*, they fine the *innocent Defendant* as well as the *Aggressor*, unless the Defendant depose upon *Oath* that he gave not a Stroke, though for his own necessary Defence, and even to save his Life. And when there are real Crimes committed, such as *Theft*, our Judges ordinarily seize the Goods of the *Criminal* without convicting him, or compound the Matter privately with him, and give him personal Freedom thereafter; that he may thief more, or beg with his Wife and Children, and be a Burden on the Country where he lived, when our *Judge* has taken all his Goods from him. From all which it is evident, what *Thraldom* our poor Nation is in by these *Hereditary Jurisdictions*, as exercised *arbitrarily*. And I can call them no less than *Imperia in Imperio*, which the King and his Royal Family ought not to dispense with, as vastly diminishing his *Sovereignty* and *Kingly Power*, and as being inconsistent with the same. Yea, by the Oppressions used within these *Jurisdictions*, many People are frighted from  
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coming into their Bounds, and so their Lands therein are lower'd, and of lower estimate; publick Fairs and Markets in Towns within the same are less frequented, and no Improvements are made, by inclosing and planting of Ground, and otherwise; and all Trade discouraged, to *Scotland's* great and general Loss. Whereas, you have no such oppressive Jurisdictions in *England*, interposed betwixt the *King* and his *Subjects*. But these Matters are determin'd with you by *Judges*, *Justices of Peace* and others, nominated and appointed by the *King*, from Time to Time, who have no Temptation from *Escheats* and *Amerciaments* of *Courts* falling to them *proprio Jure*. But the Fines put upon, and exacted from Delinquents, are applied for *publick Uses*, for the Use of your *Poor*, and Relieving your *Country* of the Burden of them. And therefore, seeing we are now incorporated with your Nation of *England*, by the *Union*, I hope, *Sir*, you will think it just and reasonable, that we in *Scotland* enjoy the same *Liberties*, and breathe in the same free Air with you.

On this Occasion I cannot but take Notice, That the *King* and *Parliament* take care, that the *Hereditary Jurisdictions*, such as *Regalities*, &c. that formerly belonged to our forfeit Lords, and others, be not conveyed to the Purchasers of the *forfeited Estates*; but sunk in the Power of the *Sovereign*: Which

is a clear Evidence, that the *King* and *Parliament* see the Evil of *interposed Superiorities* and *Hereditary Jurisdictions* betwixt the *King* and the *People*; as derogating from the *Sovereign's* Power, and as being Handles for oppressing the *People*, and even rebelling against the *King* himself and his *Government*.

Upon the whole, I make bold to say, That had your *Parliament* been duly apprised of the ill Consequences of these *Superiorities* and *Jurisdictions*; instead of confirming them by the *Union*, they would have found, that it had been more for the Interest of your Country to have advanced Money for buying what these *Superiors* can call their *just Right*: Which I humbly take to be no more than their yearly *Feu Duties* in *Feu Tenures*; all the rest of the Casualties claimed by the *Superiors* being unjust and barbarous, and which no Christian Nation should allow of.

This, I think, will be denied by none who consider that the late *Rebellions* in *Scotland*, which were chiefly occasioned by such *Superiorities*, have cost your Country a great deal more in Taxes for suppressing them, and maintaining standing Troops, than that would have amounted to.

You may easily conceive, *Sir*, That *Vassals* who held so long by these *Tenures*, and considered the frequent Changes of *Government* that have happened in this *Island*, must be

be always under a Dread of their *Superiors*; as we have seen it but too plain even in the Case of those who were forfeited for their Rebellion: but if once the Vassals are set at liberty, by such a Law, and come to hold of the *Crown*, as other Gentlemen do, they will quickly feel the happy Effect of it, and be no more under the Dread of such *arbitrary Superiors*; but become engaged by Affection, as well as Interest, to continue *Loyal* to their *Sovereign*; since it would be more honourable as well as profitable, to depend only on the *Crown* and the *Law*. Whereas, now, they are so much under the Awe and Power of these *Superiors*, that they do not almost look upon the *King* as their *Sovereign*, especially in the *Highlands* and *Isles*, but so far as their *Superiors* will give them Leave.

I must also think, *Sir*, That our *Scots* may be encouraged to expect a Relief from the Slavery and Oppression of *Superiorities* and *Hereditary Jurisdictions*, under which they labour and groan; and that not only from the *Union* that now is betwixt *England* and *Scotland*, entitling *Scotland* to the same Privileges that you have, that the whole united Body may be uniform in *Liberty* and *Property*, and the Deformity of a Part by *Oppression* and *Slavery*, may not dishonour the Whole: but also from the great Purchases that those of your *English* Nation have now made, and may yet make in *Scotland*; whereby these Grievances will certainly come

to touch your own Countrymen in the purchased Estates, and will discourage exceedingly from improving your Lands purchased in *Scotland*, by Inclosing, Planting, and otherwise, and taking *Leases* for that Effect, and from Trading within your purchased Estates. And truly, Discouragements of that Nature have been a sad Affliction hitherto generally through *Scotland*, and have occasioned the Neglect of all such Improvements, to *Scotland's* great Loss: And therefore Remedy thereto ought be provided speedily.

On this Occasion I cannot but mention the *Society* erected in this Nation, by Letters Patent from the late *Queen*, for *propagating Christian Knowledge* in the *Highlands* and *Isles*: They have made such a Progress already with their small Fund, in settling Schools, and reforming the People, that, were the same allowed by *King* and *Parliament*, out of the *forfeited Estates* in *Scotland*, put under such Managers as that Society consists of; we might soon, by the Blessing of God, hope to see the People of these Parts reform'd from the gross *Popish Way*, I may say, *Heathenish Ignorance* and *Superstition*, that reigns amongst them: Which has all along made them obsequious *Slaves* to their *Popish*, and otherwise *disaffected Chieftains*, and ready to concur with them in promoting *Slavery*, *Popery*, and raising *Rebellions* against the Government since the *Revolution*.

*Edinb. May 1721.*

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